

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 501

BY EDUCATION COMMITTEE

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-517, IDAHO CODE, TO REVISE THE POWERS AND DUTIES OF SCHOOL DISTRICT BOARDS OF TRUSTEES, INCLUDING ANY SPECIALLY CHARTERED DISTRICTS AND PUBLIC CHARTER SCHOOLS, TO REVISE PROVISIONS RELATING TO GRIEVANCE PROCEDURES FOR CERTAIN NONCERTIFICATED EMPLOYEES AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-517, Idaho Code, be, and the same is hereby amended to read as follows:

33-517. NONCERTIFICATED PERSONNEL. The board of trustees of each school district, including any specially chartered district and any Idaho public charter school, shall have the following powers and duties:

(1) To provide that hiring and evaluation procedures for noncertificated personnel shall be in writing and shall be available for any noncertificated employee's review at anytime during regular business hours. Job descriptions for all noncertificated employees shall be written and shall be made available to employees of the district or other people seeking employment.

(2) To provide a grievance procedure for noncertificated employees of the district which meets the minimum standards of paragraphs (a) through (i) of this subsection. In the event a grievance procedure is not provided, the following grievance procedure shall apply.

(a) A grievance shall be defined as a written allegation of ~~unfair treatment or a violation of school district policy~~:

(i) A violation of current written board approved school district policy;

(ii) A violation of current written school procedures;

(iii) A violation of the current written board approved employee handbook;

(iv) A condition or conditions that jeopardize the health or safety of the employee or another; or

(v) Tasks assigned outside of the employee's essential job functions and for which the employee has no specialized training.

A noncertificated employee of the district may file a grievance about any matter related to his or her employment, ~~provided that only if it directly relates to any of the grounds for a grievance provided for in paragraph (a) (i) through (v) of this subsection~~. However, neither the rate of salary or wage of the employee nor the decision to terminate an employee for cause during the initial one hundred eighty (180) days of employment shall be a proper subject for consideration under the grievance procedure provided in this section. For the purposes of this

1 section, "current" means as of the date of the incident giving rise to
 2 the grievance.

3 (b) If a noncertificated employee files a grievance, the employee shall
 4 submit the grievance in writing to his or her immediate supervisor the
 5 district's human resources administrator within six (6) working days
 6 of the incident giving rise to the grievance. The grievance shall state
 7 the nature of the grievance and the remedy sought. Within six (6) work-
 8 ing days of receipt of the grievance, the immediate supervisor shall
 9 provide a written response to the employee district's human resources
 10 administrator shall schedule an informal grievance meeting with the
 11 grievant, the employee against whom the grievance is filed, respective
 12 advocates, as well as a district administrator who will not be involved
 13 in the statutory grievance process. The purpose of the meeting shall be
 14 to attempt to find a resolution to the employee grievance.

15 (c) If the noncertificated employee is not satisfied with the response
 16 of the immediate supervisor or if there is no response within the time
 17 lines, a resolution is not reached during the informal grievance meet-
 18 ing, the individual against whom a grievance is filed shall file a writ-
 19 ten response to the employee grievance within six (6) working days af-
 20 ter the conclusion of the informal grievance meeting. Thereafter, the
 21 employee may appeal the grievance to the superintendent of the district
 22 or the superintendent's designee within five six (56) working days of
 23 the receipt of the written response as set out in subsection (2) (b) of
 24 this section or within five six (56) working days from the date the su-
 25 pervisor last had to respond the written response was due if the noncer-
 26 tificated employee received no written response. Within six (6) work-
 27 ing days of an appeal, the superintendent or his designee shall commu-
 28 nicate with the noncertificated employee in an effort to resolve the ap-
 29 peal. Within five (5) working days of the communication, the superin-
 30 tendent or his designee shall provide a written response to the noncer-
 31 tificated employee.

32 (d) If the noncertificated employee is not satisfied with the response
 33 of the superintendent or his the designee, or if there is no response by
 34 the superintendent or his the designee within the time frame provided
 35 in subsection (2) (c) of this section, the noncertificated employee may
 36 request a review of the grievance by a hearing panel within five six (56)
 37 working days from receipt of the response provided in subsection (2) (c)
 38 of this section if the employee received a written response, or five
 39 six (56) working days from the date the superintendent or designee last
 40 had to respond if the noncertificated employee received no written re-
 41 sponse. Within ten (10) working days of receipt of an appeal, the board
 42 of trustees shall convene a panel consisting of three (3) persons; one
 43 (1) designated by the board of trustees superintendent, one (1) desig-
 44 nated by the employee, and one (1) agreed upon by the two (2) appointed
 45 members for the purpose of reviewing the appeal. Within five ten (510)
 46 working days following completion of the review, the panel shall submit
 47 its decision in writing to the noncertificated employee, the superin-
 48 tendent, and the board of trustees.

49 (e) The panel's decision shall be the final and conclusive resolution
 50 of the grievance unless the board of trustees overturns the panel's de-

1 cision by resolution at the board of trustees' next regularly scheduled
 2 public meeting or unless, within forty-two (42) calendar days of the
 3 filing of the board's decision, either party appeals to the district
 4 court in the county where the school district is located. Upon appeal of
 5 a decision of the board of trustees, the district court may affirm or set
 6 aside and remand the matter to the board of trustees upon the following
 7 grounds, and shall not set the same aside on any other grounds:

8 (i) That the findings of fact are not based on any substantial,
 9 competent evidence;

10 (ii) That the board of trustees has acted without jurisdiction or
 11 in excess of its powers;

12 (iii) That the findings by the board of trustees as a matter of law
 13 do not support the decision.

14 (f) A noncertificated employee filing a grievance pursuant to this
 15 section shall be entitled to a representative of the employee's choice
 16 at each step of the grievance procedure provided in this section. The
 17 ~~supervisor~~ person against whom the grievance is filed, the super-
 18 intendent, or the superintendent's designee shall be entitled to a
 19 representative at each step of the grievance procedure. None of these
 20 individuals will be qualified to sit on the advisory grievance panel.

21 (g) ~~The time lines~~ timelines of the grievance procedure established in
 22 this section may be waived or modified by mutual agreement.

23 (h) Utilization of the grievance procedure established pursuant to
 24 this section shall not constitute a waiver of any right of appeal avail-
 25 able pursuant to law or regulation.

26 (i) Neither the board nor any member of the administration shall take
 27 reprisals affecting the employment status of any party in interest. The
 28 employee filing a grievance shall not take any reprisals regarding the
 29 course of the outcome of the grievance nor take any reprisals against
 30 any party or witness participating in the grievance.

31 (j) A noncertificated employee of a school district shall be ~~required~~
 32 ~~to review and sign any entries made to his personnel file. At reasonable~~
 33 ~~times and places, in the presence of an appropriate district official,~~
 34 ~~a noncertificated employee may inspect documents contained in his offi-~~
 35 ~~cial personnel file provided a personnel file consistent with the pro-~~
 36 visions of section 33-518, Idaho Code.